The theory that a person has a right of privacy for the violation of which a cause of action accrues is one of recent development and was advanced for the first time in 4 HARV. L. REV. 193. This right was first unequivocally recognized by the courts as independent from any property right or libelous representations in the case of *Pavesich* v. *New England Mutual Life Ins. Co.*, 122 Ga. 190 and this case has been followed in Kentucky and New Jersey. *Foster-Millburn Co.* v. *Chinn*, 134 Ky. 424; 8 MICH. L. REV. 221; *Edison* v. *Edison Polyform Co.*, 73 N. J. Eq. 136. Contra, *Roberson* v. *Rochester Folding Box Co.*, 171 N. Y. 538; *Henry* v. *Cherry*, 30 R. I. 13; *Corelli* v. *Wall*, 22 T. L. Rep. 532. See *Atkinson* v. *Doherty & Co.*, 121 Mich. 372. The New York court in the majority opinion refused to recognize the existence of the right to privacy in the case above cited, and that decision furnished the occasion of the enactment of the statute which formed the basis of the principal case. The decision is important in limiting the application of a prior case under the same statute, *Binns* v. *Vitagraph Co.*, 210 N. Y. 51, where the plaintiff's heroic act at sea was reproduced by actors under the plaintiff's name and formed the nucleus of a picture drama and where a recovery was allowed. In the principal case a distinction is made between an actual picture of news value distributed as a news item and a representation by actors dressed to resemble the plaintiff in order to enhance the value of a story which admittedly was only a fiction. To allow a recovery in the former case would be to make a newspaper liable for all news published without the consent of the person featured, a result obviously not intended by the legislature in view of the circumstances under which the statute was enacted. On the right of privacy generally see 18 Ann. Cas. 1017, 2 Ann. Cas. 574, Ann. Cas. 1915 B, 1027, 12 COL. L. REV. 693.

WILLS—GIFT OVER UPON DEATH OF PREVIOUS TAKER WITHOUT CHILDREN.—After directing by will that a sum of money be placed in trust for the benefit of each of his three children, and that if any child died without issue, the fund should become part of the residue, the testator gave part of the residue to his wife and the rest of the residue to his three children equally, "provided * * * that if either of my children shall die without leaving a living child or children, then the share of such child shall become the property of the survivor or survivors, it being my intention that the surviving child * * * or children shall have the whole balance of my estate." One of the children, a son, died childless after the death of the testator, and his widow claims his share of the residue. It was *held* that she was not entitled to her deceased husband's share, but that it went to the testator's surviving children. *In re Peavey's Esate* (Minn., 1919), 175 N. W. 105.

There is apparently a conflict of authority on the point here involved. Some courts adopt the rule that a will making a devise over upon the death of the first taker is to be understood to refer to the death of the first taker if it occurs within the life of the testator, but if the first taker survives the

testator, then the devised estate vests in him absolutely; provided, however, that if the testator's intent clearly appears to be otherwise, that intention will be given effect. *Fowler* v. *Duhme,* 143 Ind. 248; *Lawlor* v. *Holohan,* 70 Conn. 87. Other authorities seem to lean the other way. *Britton* v. *Thornton,* 112 U. S. 526. It must be remembered, however, that in most cases there are controlling circumstances. It is submitted that the Minnesota court in the instant case applied the above proviso to the rule. The Indiana court did likewise in *Moore* v. *Gary,* 149 Ind. 51. The same rules apply equally to devises of realty as to bequests of personalty. *Dictum* in *Ferguson* v. *Thomason,* 87 Ky. 519, 524. At first glance the principal holding might seem not to harmonize with the classification laid down by Sir John Romilly in *Edwards* v. *Edwards,* 15 Beav. 357 (this case coming within his second class), but there is no conflict when his language is considered as a whole, for he supplements his views on this class by saying that "all these cases are of course liable to be varied by the force of particular expressions * * *, importing a different intention." Another reason for the result in the case at bar is that courts will have regard for the common desire of men to favor, with their bounty, their own kin. For an elaborate review of the authorities on this vexatious question see the note in 25 L. R. A. (N.S.) 1045.

WORKMEN'S COMPENSATION—"OUT OF AND IN THE COURSE OF EMPLOYMENT" —ACCIDENT ON WAY TO WORK.—An employee was run over by a train on his way to work. He was crossing a railroad track by a commonly used path at a point 20 feet from the entrance of his employer's place of business. *Held,* the accident arose out of and in the course of his employment. *Judson Mfg. Co. et. al.* v. *Industrial Accident Commission, et. al.,* (Cal., 1919) 184 Pac. 1.

An employee was the manager of a piano company which rented offices on the fourth floor of a building. He entered the building on Sunday, contrary to the rules of the lessors, but for the purpose of transacting his employers' business, and attempted to operate a passenger elevator to reach the fourth floor. He fell into the shaft, and was injured. *Held,* the accident arose out of the employment and was conpensable under the same statute as the *Judson case, supra. Starr Piano Co. et. al.* v. *Industrial Accident Commission, et al.,* (Cal., 1919) 184 Pac. 860.

An accident to a workman on the way to work is not ordinarily in the course of employment. HONNOLD, WORKMEN'S COMPENSATION, p. 358. *A fortiori,* it does not arise out of the employment. The fact that the accident did not occur on the premises of the employer may preclude recovery. *DeConstantin* v. *Pub. Serv. Com.,* 75 W. Va. 32. Even though the employee is on the premises of the employer on his way to work, recovery has been denied. *Walters* v. *Coal Co.,* 105 L. T. N. S. 119, (foot path across employer's field); *Byrket* v. *L. S. & M. S. R. R.,* 29 Ohio C. C. 614, (section hand walking on right of way). On the other hand, recovery has been allowed where the employer did not own or co ntrol the locus of the accident. *Sundine's Case,*